



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[Docket No. FWS-R4-ES-2023-0019; FXES11130400000-234-FF04EF4000]

### Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Eastern Indigo Snake; Decatur County, GA; Categorical Exclusion

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the Fish and Wildlife Service (Service), announce receipt of an application from Tri-State Solar Project, LLC (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed threatened eastern indigo snake (*Drymarchon couperi*) incidental to the construction and operation of a solar facility in Decatur County, Georgia. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review. We invite comment from the public and local, State, Tribal, and Federal agencies.

**DATES:** We must receive your written comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES: *Obtaining Documents:*** You may obtain copies of the documents online in Docket No. FWS-R4-ES-2023-0019 at <https://www.regulations.gov>.

**Submitting Comments:** If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R4-ES-2023-0019.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS-R4-ES-2023-0019; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** Michele Elmore, by U.S. mail (see **ADDRESSES**), via phone at 912-403-1873, or by email at [michele\\_elmore@fws.gov](mailto:michele_elmore@fws.gov).

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:** We, the Fish and Wildlife Service (Service), announce receipt of an application from Tri-State Solar Project, LLC (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed threatened eastern indigo snake (*Drymarchon couperi*) incidental to the construction and operation of a solar facility development in Decatur County, Georgia. We request public comment on the application, which includes the applicant’s habitat conservation plan (HCP), and on the Service’s preliminary determination that this proposed ITP qualifies as “low effect,” and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality’s National Environmental Policy Act (NEPA) regulations (40 CFR 1501.4), the Department of the Interior’s (DOI) NEPA regulations (43 CFR 46), and the DOI’s Departmental Manual (516 DM 8.5(C)(2)). To make this preliminary

determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review.

### **Proposed Project**

The applicant requests a 10-year ITP to take three individual eastern indigo snakes via the conversion of approximately 431 acres (ac) of occupied nesting, foraging, and sheltering habitat incidental to the construction and operation of a solar facility development on a 3,611-ac parcel on the north side of Georgia State Route 253 and east side of Georgia State Route 310, approximately 4 miles west of Bainbridge, in Decatur County, Georgia. The applicant proposes to avoid and minimize take of the species to the greatest extent possible by implementing the Service's Standard Protection Measures for the eastern indigo snake during implementation of activities associated with the construction and operation of the solar facility. The applicant proposes mitigation for take of the eastern indigo snake by contributing \$339,412.50 to the Wildlife Foundation of Florida – Eastern Indigo Snake Conservation Fund. These funds will be used in Georgia for the management or restoration of eastern indigo snake habitat, purchase of occupied habitat, purchase of development rights for occupied habitat, or a combination thereof. The Service would require the applicant to provide the contribution of the funds prior to engaging in any construction of the project.

### **Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

### **Our Preliminary Determination**

The Service has made a preliminary determination that the applicant's proposed

project, including the construction and operation of the solar facility, would individually and cumulatively have a minor effect on the eastern indigo snake and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a “low-effect” ITP that individually or cumulatively would have a minor effect on the eastern indigo snake and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality’s NEPA regulations, DOI’s NEPA regulations, and the DOI Departmental Manual. A “low-effect” incidental take permit is one that would result in (1) minor or negligible effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonable foreseeable actions, would not result in significant cumulative effects to the human environment.

### **Next Steps**

The Service will evaluate the application and the comments to determine whether to issue the requested ITP. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER 0053113 to Tri-State Solar Project, LLC.

### **Authority**

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500-1508 and 43 CFR 46).

**Peter Maholland,**

*Field Supervisor,  
Georgia Ecological Services Office.*

[FR Doc. 2023-03635 Filed: 2/21/2023 8:45 am; Publication Date: 2/22/2023]